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10/782,882	02/23/2004	Craig French	3426-0108P	7102
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BIRCH STEWART KOLASCH & BIRCH			EXAMINER	
PO BOX 747			LUPINO, GINA M	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Office Action Summary	Application No. 10/782,882	Applicant(s) FRENCH, CRAIG	
	Examiner Gina M. Lupino	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 and 21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

I. Withdrawal of Finality

1. Applicant's request for reconsideration of the finality of the rejection of the last Office Action is persuasive and, therefore, the finality of that action is withdrawn.

II. Claims Cancelled

1. The Examiner acknowledges Applicant has cancelled claim 20. Thus, the following Office Action is directed only to the remaining claims.

III. Claim Objections

1. Claims 2 and 21 recite the term "loading apparatus", but should state --loading system--, as previously recited in claims 1 and 21, respectively. Thus, for the purpose of the claim rejections below, the Examiner has construed this limitation as a "loading system".

IV. Claim Rejections - 35 USC § 112

The following is a quotation from the relevant paragraphs of 35 U.S.C. 112:

(2) The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

1. Claims 1-19, 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
 - 1.1. Claim 1 recites the limitation, "A lifting frame pivotally attached to said main frame, said lifting frame including a lever arm and a pair of spaced-apart lifting arms directly connected thereto", however the term "thereto" makes this limitation unclear. It is unclear whether spaced-apart lifting arms are directly connected to the lifting frame, the lever arm,

the main frame, or otherwise directly connected to some other feature. Further clarification is necessary.

1.1(a) However, for the purpose of the claim 1 rejection below, the Examiner has construed this limitation as "directly connected to the lever arm".

1.2. Claim 21 recites the limitation, "A lifting frame pivotally attached to said main frame, said lifting frame including a lever arm and a pair of spaced-apart lifting arms operably connected thereto", however the term "thereto" makes this limitation unclear. It is unclear whether spaced-apart lifting arms are connected to the lifting frame, to the main frame, or both, or otherwise to some other feature(s). Further clarification is necessary.

1.2(a) However, for the purpose of the claim 21 rejection below, the Examiner has construed this limitation as "operably connected to the lever arm".

1.3. Claim 8 recites the limitation "said trapezoidal plates", but there is only "a trapezoidal plate" previously recited. Thus, there is insufficient antecedent basis for this limitation in the claim.

V. Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1, 3, 5-6, 11, 14-16, 18-19, 21 are rejected under 35 U.S.C. 102(b) as being anticipated by SCHWEIN (U.S. Patent No. 4,095,706).

1.1. With respect to claim 1, SCHWEIN discloses a loading system comprising:

- 1.1(a) A main frame 16, supported by wheels 38, including a pair of spaced-apart supports arms 32 extending in a longitudinal direction of the loading apparatus,
 - 1.1(b) A lifting frame 49, pivotally attached to the main frame, including a lever arm 64 and a pair of spaced-apart lifting arms 72 directly connected to the lever arm, extending in the longitudinal direction of the loading apparatus, and in conjunction with the support arms defining a spool receiving volume in the rear of the loading apparatus;
 - 1.1(c) A support rack 42, 44 attached to the lifting arms 72, comprising a pair of spaced-apart rack members configured to support a spool 14, each rack member capable of extending vertically from one of the lifting arms; and
 - 1.1(d) A connecting device 114, 124, 126, 139 for connecting the lifting frame to the main frame.
- 1.2. With respect to claims 3, 5-6, 11, 14-16, 18-19, SCHWEIN discloses the loading system discussed above, and:
- 1.2(a) With respect to claim 3, a main frame 16 with a tongue 28 with a hitch 24 mounted at the front of the tongue.
 - 1.2(b) With respect to claim 5, the main frame has a tongue connected to the support arms.
 - 1.2(c) With respect to claim 6, the support arms have a pair fulcrum arms 75 extending upwardly diagonally therefrom.
 - 1.2(d) With respect to claim 11, a spool may be secured in position on a spindle using locking and centering collars 68 on both sides of the spool.
 - 1.2(e) With respect to claim 14, the main frame has a horizontal lateral cross member interconnecting forward ends of the spaced-apart support arms and to which a rearward end of the tongue is attached.

- 1.2(f) With respect to claim 15, the lifting frame has a horizontal lateral cross member 52 interconnecting forward ends of spaced-apart lifting arms 72 and to which a rearward end of a lever arm is attached.
- 1.2(g) With respect to claim 16, the system is adapted to carry bales 14 held in place by bale penetrating bars 92. See Figures 1-3.
- 1.2(h) With respect to claim 18, loading system is adapted to carry bales 14 held in place by bale engaging and holding members 42, 44, 92, which are rotatably mounted on a spindle and are held in place by collars 85. See Figures 1-3, column 2, lines 40-50.
- 1.2(i) With respect to claim 19, engaging and holding members are rotatable over the spindle.
- 1.3. With respect to claim 21, SCHWEIN discloses a loading system with a pre-loaded position and a loaded position, comprising:
- 1.3(a) A main frame 16, supported by a plurality wheels 38, including a pair of spaced-apart supports arms 32 extending in a longitudinal direction of the system,
- 1.3(b) A lifting frame 49, pivotally attached to the main frame, including a lever arm 64 and a pair of spaced-apart lifting arms 72 operably connected to the lever arm, the lifting arms extending in the longitudinal direction of the loading apparatus and in conjunction with the support arms defining a load receiving volume in the rear of the loading system,
- 1.3(c) A support rack 42, 44, attached to the lifting arms 72, comprising a pair of spaced-apart rack members,
- 1.3(d) A connecting device 114, 124, 126, 139 for connecting the lifting frame to the main frame,
- 1.3(e) Where the rear of the loading apparatus is open to afford the loading, transporting, and unloading of loads, and

- 1.3(f) The lifting arms are capable of extending in the longitudinal direction in the pre-loaded position of the loading system and in the loaded position of the loading system.

VI. Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over SCHWEIN (U.S. Patent No. 4,095,706) in view of FORSYTHE (U.S. Patent No. 6,217,053).
 - 1.1. With respect to claim 2, SCHWEIN teaches the loading system discussed above, but fails to teach a jack stand on the trailer. FORSYTHE teaches a loading system with a trailer and a jack stand. Therefore, it would have been obvious to one of ordinary skill in the art to modify the trailer of SCHWEIN with the jack stand of FORSYTHE in order to stabilize the system when not connected to a towing vehicle.

VII. Response to Applicant's Arguments

Applicant's arguments entered September 8, 2006 have been fully considered.

1. Applicant's arguments with respect to the rejection of claims 7, 12, 14, 15, 17, and 18 under 35 USC § 112 are persuasive.
2. Applicant's arguments with respect to the rejection of claims 1, 3, 5, 6, 14-16, and 18-20 under 35 U.S.C. 102(b) are not persuasive.

- 2.1. With respect to claim 1, Applicant argues DEARBORN fails to teach the features recited by claim 1. This argument is persuasive. Thus, the rejections based on DEARBORN have been removed.
- 2.2. With respect to claim 1, Applicant argues SCHWEIN fails to teach the limitations of claim 1, as amended. However, the Examiner disagrees with the Applicant.
- 2.2(a) With respect to claim 1, Figures 1-4 of SCHWEIN show the elements expressly recited by amended claim 1, as written, as discussed above.
- 3. Applicant's arguments with respect to the rejection of claims 9, 10, 12, 13, and 17 under 35 U.S.C. 103(a) are persuasive.**

VIII. Allowable Subject Matter

1. Claim 4, 7-10, 12, 13, 17 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
2. Claims 4, 7-10, 12, 13, 17, are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
3. The following is a statement of reasons for the indication of allowable subject matter: while the prior art teaches a wheeled, hitched loading system, as described in the language of claim 1, the following unique features, as detailed in the language of claims 4, 7, 8, 9, are not taught or fairly suggested by the prior art:
 - 3.1(a) With respect to claim 4, a U-shaped yoke fastened to a vertical support member extending upwardly from the main frame, and a pin for interconnecting the U-shaped yoke to the lifting arm.

- 3.1(b) With respect to claim 7, a trapezoidal plate joining upper ends of said fulcrum arms, where said fulcrum arms form a triangle wherein two bottom corners of the triangle are fastened to the main frame and said trapezoidal plate is at an apex of the triangle.
- 3.1(c) With respect to claim 8, a trapezoidal plate having holes drilled, cast, cut, or stamped in it to accommodate a pin and to function as a fulcrum.
- 3.1(d) With respect to claims 9 and 10, the U-shaped pockets are at various heights along the rack members and for a resting and securing place for ends of spindles upon which spools are positioned, and are a plurality of sizes to accommodate various spool and spindle diameters.

IX. Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. These references teach vehicles capable of transporting bales of hay.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gina M. Lupino whose telephone number is (571) 272-6577. The examiner can normally be reached on Monday - Friday, 9:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saul Rodriguez can be reached on (571) 272-7097. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3652

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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